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7 Attorneys for Plaintiff
UNITED STATES OF AMERICA

8 UNITED STATES DISTRICT COURT
9
10 SOUTHERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 DALE STAMPER (1),

15 Defendant.

Criminal Case No. 07CR3218-NLS

**STIPULATION OF FACT AND JOINT
MOTION FOR RELEASE OF
MATERIAL WITNESS AND ORDER
THEREON**

16 **IT IS HEREBY STIPULATED AND AGREED** between the plaintiff,
17 UNITED STATES OF AMERICA, by and through its counsel, Karen P. Hewitt, United States
18 Attorney, and Aaron B. Clark, Assistant United States Attorney, and defendant DALE STAMPER,
19 with the advice and consent of defense counsel, Rosalyn Dergregorian Feral:

20 1. Defendant agrees to execute this stipulation and to participate in a full and complete
21 inquiry by the Court into whether defendant knowingly, intelligently and voluntarily entered into it.

22 2. The material witnesses in this case:

- 23 a. Are aliens with no lawful right to enter or remain in the United States;
24 b. Entered or attempted to enter the United States illegally on or about November
25 15, 2007;
26 c. Were found in a boat driven by defendant Dale Stamper in the Pacific Ocean,
27 approximately ten miles North of the International Border at position 32° 42'N 117° 21'W, and that
28 defendant knew or acted in reckless disregard of the fact that they were aliens with no lawful right
to enter or remain in the United States;

1 d. were paying between \$3,500.00 to \$4500.00 to individuals associated with
2 defendant to be brought into the United States illegally and/or transported illegally to a destination
3 therein; and,

4 e. May be released and remanded immediately to the Department of Homeland
5 Security for return to their country of origin.

6 3. After the material witnesses are ordered released by the Court pursuant to this
7 stipulation and joint motion, if defendant withdraws his guilty plea to the charge of bringing in an
8 alien without presentation, in violation of 8 U.S.C. § 1324(a)(2)(B)(iii), defendant agrees that in any
9 proceeding, including, but not limited to, motion hearings, trial, sentencing, appeal or collateral
10 attack, that:

11 a. The stipulated facts set forth in paragraph 2 above shall be admitted as
12 substantive evidence;

13 b. The United States may elicit hearsay testimony from arresting agents
14 regarding any statements made by the material witness(es) provided in discovery, and such testimony
15 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest
16 of (an) unavailable witness(es); and,

17 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),
18 "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted
19 and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant
20 waives the right to confront and cross-examine the material witness(es) in this case.

21 4. By signing this stipulation and joint motion, defendant certifies that defendant has
22 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
23 further that defendant has discussed the terms of this stipulation and joint motion with defense
24 counsel and fully understands its meaning and effect.

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28 Stipulation of Fact and Joint Motion for Release of
Material Witness And Order Thereon in
United States v. Stamper (1)

1 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
2 immediate release and remand of the above-named material witness to the Department of Homeland
3 Security for return to his country of origin.

4 It is STIPULATED AND AGREED this date.


5 Respectfully submitted,

6 KAREN P. HEWITT
United States Attorney

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8 Dated: 2-28-08


AARON B. CLARK
Assistant United States Attorney

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10 Dated: 2-28-08


ROSALYN DERGREGORIAN FERAL
Defense Counsel for Dale Stamper

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12
13 Dated: 2-28-08


DALE STAMPER
Defendant

ORDER

Upon joint application and motion of the parties, and for good cause shown,

THE STIPULATION is admitted into evidence, and,

IT IS ORDERED that the above-named material witness be released and remanded forthwith to the Department of Homeland Security for return to her country of origin.

SO ORDERED.

Dated: 4-10-08


HONORABLE NITA L. STORMS
United States Magistrate Judge